



# RULE-MAKING ORDER

**CR-103 (June 2004)**  
(Implements RCW 34.05.360)

Agency: Insurance Commissioner

☒ Permanent Rule  
☐ Emergency Rule

**Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing.  
☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

☐ Immediately upon filing.  
☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** These new rules will provide uniformity and consistency not only in Washington specific market conduct oversight activity, but also between Washington and other states.

Insurance Commissioner Matter No. R 2007-02

**Citation of existing rules affected by this order:**

Repealed:

Amended:

Suspended:

**Statutory authority for adoption:** RCW 48.02.060 and chapter 82, Laws of 2007

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 07-12-056 on June 04, 2007.

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:** August 1, 2007

**NAME (TYPE OR PRINT)**

Mike Kreidler

**SIGNATURE**

*Mike Kreidler*

**TITLE**

Insurance Commissioner

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 01, 2007

TIME: 10:26 AM

**WSR 07-16-146**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>6</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>6</u>	Amended	_____	Repealed	_____

## Chapter 284-37 WAC

### MARKET CONDUCT OVERSIGHT PROGRAM

#### NEW SECTION

**WAC 284-37-010 Definitions.** The following definitions apply throughout this chapter unless the context requires otherwise:

(1) "Insurer" shall have the same meaning as set forth in chapter 82, section 5(4), Laws of 2007, and specifically includes health care service contractors, health maintenance organizations, fraternal benefit societies, and self-funded multiple employer welfare arrangements.

(2) "Insurance" shall have the same meaning as set forth in RCW 48.01.040, and includes all policies and contracts offered by any insurer, as defined in subsection (1) of this section.

(3) "Complaint" means any written or documented oral communication primarily expressing a grievance, meaning an expression of dissatisfaction.

(4) "NAIC" means the National Association of Insurance Commissioners, and has the same meaning as in RCW 48.02.140.

(5) "Records" means any information from data available to the commissioner, surveys, required reports, information collected by the NAIC and other sources in both public and private sectors, and information from within and outside the insurance industry.

#### NEW SECTION

**WAC 284-37-020 Procedures manuals.** To foster nationwide consistency in market conduct oversight, and as authorized by chapter 82, sections 6, 7 and 8, Laws of 2007 the commissioner adopts the following procedures and handbooks published by the NAIC and in effect on July 31, 2007, or as later amended. The applicable version of the procedure or handbook will be the version in effect when the relevant market conduct activity was initiated.

(1) *The NAIC Market Regulation Handbook* for all market conduct oversight activities, as defined at chapter 82, section 5(9), Laws of 2007.

(2) *The NAIC Market Conduct Uniform Examination Procedures* for

all market conduct examinations, as defined at chapter 82, section 5(10), Laws of 2007.

(3) *The NAIC Standard Data Request* for all requests to insurers for market data, as defined at chapter 82, section 5(11), Laws of 2007.

#### NEW SECTION

**WAC 284-37-030 Access to records.** During the market analysis process, the commissioner may require access to identifiable records in the possession of, or subject to control or access by the insurer. This section sets forth the process that the commissioner will follow when requesting records. Whenever possible and appropriate, the commissioner will make these requests electronically.

(1) The commissioner will contact the insurer in writing listing the records to be provided by the insurer for review.

(a) The list will specify the records required by the market conduct oversight personnel and will set forth the preferred method for transmission of records to the market conduct oversight team.

(b) The request will include the reason for the request and summarize how the records are intended to be used.

(2) All requested records must be provided to the commissioner within fifteen working days after receipt of the request.

(3)(a) If the insurer is not able to produce the requested records within the allotted time, the insurer must contact the commissioner before expiration of the allotted time and propose an alternative due date. The request must provide information about its reason for requesting a later due date.

(b) If the insurer is not able to produce the requested records in the format or manner requested by the market conduct oversight team, the insurer must contact the commissioner before expiration of the allotted time and propose an alternative delivery format.

(4) The commissioner will contact the insurer within five working days after receipt of any request for a later due date or alternative delivery format to discuss the proposed alternatives.

#### NEW SECTION

**WAC 284-37-040 Market conduct annual statement.** (1) Every insurer shall file with the commissioner its market conduct annual statement, as required by chapter 82, section 6, Laws of 2007, in accordance with filing instructions published by the NAIC.

(2) For purposes of this chapter, the market conduct annual statement filing is not complete until it has been received by the commissioner, in either hard copy or electronic form, as designated by the commissioner.

#### NEW SECTION

**WAC 284-37-050 Complaint verification.** If a complaint is filed against an insurer, the commissioner will notify the insurer following this process. Whenever possible and appropriate, the commissioner will provide the notices detailed below to the insurer electronically.

(1) Initial notice to the insurer. The commissioner will send an initial notice to the insurer that identifies the name of the insurer against whom the complaint was filed using the insurer's name and NAIC number, and any other available identifying information as provided to the commissioner by the complainant.

(a) If the insurer disagrees with the name of the insurer as identified in the complaint, it must file an objection in writing no later than fifteen working days after the date the commissioner sends the notice to the insurer and attach appropriate supporting information or documentation.

(b) Failure of the insurer to object to the legal name and NAIC number provided in the initial notice of the complaint within the allotted time, will be considered to be the insurer's verification that the proper insurer is identified in the complaint.

(c) No extension of time to respond to the initial notice will be permitted except for good cause shown.

(2) Complaint closure notice. The commissioner will send a copy of the proposed complaint closure notice to the insurer at the time the complaint is closed. The complaint closure notice will identify the codes for both the type of coverage and reason for complaints that will be reported to the NAIC.

(a) If the insurer wishes to object to the coding to be reported to the NAIC, an objection must be filed with the commissioner within fifteen working days after the date that the complaint closure notice is sent to the insurer. The objection must contain a concise description of the nature of the objection to the proposed coding and must include appropriate supporting information or documentation.

(b) Upon receipt of the insurer's objection, the commissioner will take reasonable and necessary steps to prevent reporting of that complaint to the NAIC until the insurer's objection is resolved.

(c) Failure of the insurer to object to the proposed coding set forth in the complaint closure notice will be considered verification that the complaint closure notice uses the correct

codes and the notice will be reported to the NAIC.

(3) Opportunity to object to coding to be reported to the NAIC.

(a) Within ten working days after the commissioner receives an objection to proposed coding from the insurer, the commissioner will consider the information or documentation provided by the insurer and will advise the insurer that the original proposed coding has been affirmed or modified.

(b) The final complaint coding will be reported to the NAIC no sooner than five working days after resolution of an objection.

#### NEW SECTION

**WAC 284-37-060 Dispute resolution.** As required at chapter 82, section 14(3), Laws of 2007, after the deputy insurance commissioner responsible for market conduct oversight has responded to an insurer's issues, the insurer may request mediation of the issues. The following process governs mediation of insurer market conduct oversight issues.

(1) A request for mediation of the issues must be made within five working days after receipt by the insurer of a final decision on any issue.

(2) The commissioner will maintain a list of approved mediators to mediate disputed issues. All approved mediators will be qualified by training and experience.

(a) The commissioner will publish a copy of the current resume and fee schedule of each panel mediator on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

(b) At the start of a market analysis process or the start of a market conduct examination, the insurer must select a mediator and alternate mediator from the approved list.

(c) The party requesting mediation is required to pay the costs of the mediator.

(3) As provided at chapter 82, section 14(4), Laws of 2007, at any point in the mediation, the insurer may commence an adjudicative proceeding under chapters 48.04 and 34.05 RCW.